



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/533,128 | 04/29/2005 | Erik Wulvik | 22106-00088-US1 | 4729 |

30678 7590 03/03/2006

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

EXAMINER

JOHNSON, STEPHEN

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/533,128 | Applicant(s) WULVIK ET AL. | |
| | Examiner Stephen M. Johnson | Art Unit 3641 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 14-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3641

1. This application contains claims directed to the following patentably distinct species:
Species A is illustrated in fig. 1. Species B is illustrated in fig. 2. Species C is illustrated in fig. 3.
Species D is illustrated in figs. 4a-4b. Species E is illustrated in figs. 4c-4d. The species are independent or distinct because each species contains patentably distinct features.

Applicant is required under 35 U.S.C. 121 **to elect a single disclosed species for prosecution** on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement **must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.** An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. Claims 14-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claims 14 and 28, it is not understood as to how any of the embodiments can be accurately described as “at least two groups of plate-shaped protective elements”. Each of the embodiments contains a first plate-shaped element 1 and a second plate-shaped element 3

Art Unit: 3641

making up a single group rather than a plurality of groups. Claims 25 and 27 depend from a cancelled claim. In claim 15, line 4, use of the term “liquid-like” makes the claim indefinite as to how closely related to or similar to a liquid the layers must be to infringe the claims.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

It is not understood as to how the one or more elastic bodies 6 interact with liquid containers that are rigid to result in an operation device as described. Clearly the liquid containers must be flexible to some degree in order to draw together the plate-shaped protective elements 1, 3 as now claimed.

5. Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is not understood as to how the one or more elastic bodies 6 interact with liquid containers that are rigid to result in an operation device. Clearly the liquid containers must be flexible to some degree in order to draw together the plate-shaped protective elements 1, 3 as now claimed.

Art Unit: 3641

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 14-15, 17, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Markus et al. (431).

Markus et al. (431) disclose a ballistic protection device comprising:

- a) a group of protective elements; 10
- b) a liquid with associated container; and 12, 14
- c) a flexible container. 14

8. Claims 14-15, 17-18, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bullat (162).

Bullat (162) disclose a ballistic protection device comprising:

- a) a group of protective elements; 14, 30
- b) a liquid with associated container; 20, 20', col. 4, lines 8-10
- c) a flexible container; 20, 20', 20''
- d) a filling means; and 34
- e) tapping means. 38

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullat (162) in view of Barrett (079).

Bullat (162) applies as previously recited. However, undisclosed is a filling fluid that is water.

Barrett (079) teaches a filling fluid that is water (col. 5, lines 9-16). Applicant is substituting one type of filling fluid for another in an analogous art setting as explicitly encouraged by the primary reference (see col. 4, lines 8-10 of Bullat).

11. Claims 14-16, 19, 21, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Chung (686).

Chung (686) discloses a ballistic protection device comprising:

- a) a group of protective elements; 16
- b) a liquid with associated container; 30
- c) a rigid container; and 12
- d) filling and tapping means. 20, 22, 24, 26

12. Claims 14-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauret et al. (777).

Sauret et al. (777) disclose a ballistic protection device comprising:

- a) a group of protective elements; 3a, 3b
- b) a liquid with associated container; and 12a, 12b
- c) a rigid container. surrounds 12a, 12b

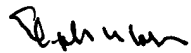
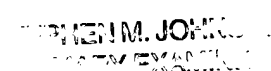
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877

Art Unit: 3641

and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
February 28, 2006